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EXAMINER

TRAN, HANH VAN

ART UNIT

PAPER NUMBER

3637

NOTIFICATION DATE

DELIVERY MODE

07/02/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### **DETAILED ACTION**

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 4/8/2010.

#### ***Election/Restrictions***

2. Applicant's election without traverse of Species I comprising figures 3-5 in the reply filed on 1/25/2010 is acknowledged.

3. Claims 13-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/25/2010.

#### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation in claim 20 of the ribs "are aligned with vertical rails associated with the drawer" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the limitation in claim 20 of the ribs "are aligned with vertical rails associated with the drawer".

### ***Claim Objections***

6. Claims 12, 17-23 are objected to because of the following informalities: (1) claim 1, (i) line 6, "said cart" and "said liner" should be deleted, (ii) lines 7, 10-11, and 14, each instance of "the said" should be "the", (iii) lines 10 and 12, "and/or" should be "or", (iv) line 13, "said liner" should be deleted, and (v) line 14, "a new liner" should be deleted. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 12, 18-20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 6,039,467 to Holmes.

Holmes discloses a medication storage device comprising all the elements recited in the above listed claims including, such as shown in Figs 2 & 7, one or more drawers 14 for the storage and transporting of medications or medical treatment equipment, one or more disposable liners 34 having a size and configuration to be disposed within and generally conform to an inner periphery of the one or more drawers 14 and having an open top, an identification panel extending from a front of the liner, a plurality of inwardly extending ribs 56 provided on side walls of the liner 34 and one or more dividers 38 positioned to cooperate with the ribs to subdivide the interior of the drawer, with the ribs being aligned with vertical rails associated with the drawer. Holmes further discloses the liner can be constructed from relatively inexpensive plastics, so that the liner may be discarded after used or recycled (col. 5, lines 50-53). Since Holmes discloses all the structural limitations recited in the claims, it is inherent that Holmes can perform all the method steps recited in the claims.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes in view of Dubin.

Holmes discloses all the elements as discussed above except for the liner comprising a bacteriostatic plastic.

Dubin teaches the idea of producing a bacteriostatic plastic and a product resulting therefrom that is effective to kill disease and infection-producing organisms coming into contact with the surface of the plastic. Therefore, it would have been obvious to modify the medication liner of Holmes by having the liner comprising a bacteriostatic plastic in order to kill disease and infection-producing micro-organisms coming into contact with the surface of the plastic, as taught by Dubin, since both references are drawn to medical products, use for the same intended purpose, thereby providing structure as claimed.

12. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes in view of Carlson et al.

Holmes discloses all the elements as discussed above except for the one or more drawers having a partially open bottom panel.

Carlson teaches the idea of providing medication distribution apparatus comprising a drawer 200 having an open bottom panel, a liner 242 having a plurality of inwardly extending ribs forming slots 246 to receive dividers 248/250, an identification panel for each individual patient that extends from a front of the liner; wherein the open bottom panel allows the drawer to receive liners of various depths therein, such that storage space of the liner can be easily altered. Therefore, it would have been obvious and well within the level of one skill in the art to modify the structure of Holmes by providing the drawer with at least a partially open bottom panel in order to allow the drawer to receive lines of various depths therein, such that storage space of the liner can be easily altered, as taught by Carlson, since both teach alternate conventional medication distribution apparatus, used for the same intended purpose, thereby providing structure as claimed.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HANH V. TRAN whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell M. Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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HVT  
June 29, 2010

/Hanh V. Tran/  
Primary Examiner, Art Unit 3637